

## UNITED STATES DISTRICT COURT

for the  
Western District of Washington

In the Matter of the Search of

(Briefly describe the property to be searched  
or identify the person by name and address)

Residence located at 651 Alder Creek Ln NE,  
Belfair, Washington 98528, including trailers and  
outbuildings located within the curtilage

Case No. MJ10-5191-01

## SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search  
of the following person or property located in the Western District of Washington  
(identify the person or describe the property to be searched and give its location):

See Attachment A, attached hereto and incorporated herein

The person or property to be searched, described above, is believed to conceal (identify the person or describe the  
property to be seized):

See Attachment B-1, attached hereto and incorporated herein

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or  
property.

YOU ARE COMMANDED to execute this warrant on or before

11/27/10

(not to exceed 10 days)

☒ in the daytime 6:00 a.m. to 10 p.m.☐ at any time in the day or night as I find reasonable cause has been  
established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property  
taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the  
place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an  
inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge

J. RICHARD CREATURA

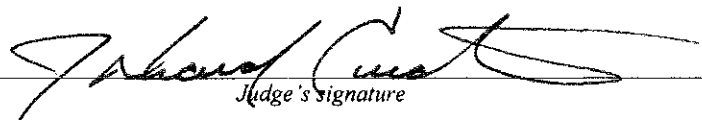
(name)

☒ I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay  
of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be  
searched or seized (check the appropriate box) ☒ for 10 days (not to exceed 30).

☐ until, the facts justifying, the later specific date of \_\_\_\_\_

Date and time issued:

11/17/10 3:45 P.

  
Judge's signature

City and state: Tacoma, Washington

J. RICHARD CREATURA, United States Magistrate Judge

Printed name and title

## Case No.:

Copy of warrant and inventory left with:

Inventory of the property taken and name of any person(s) seized:

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date: \_\_\_\_\_

\_\_\_\_\_  
Executing officer's signature

Printed name and title

**ATTACHMENT A**  
(Residences to be Searched)

a. The residence of Mark SKILES, located at 651 Alder Creek Ln NE, Belfair, Washington 98528, is more fully described as a single story structure, cream in color with dark brown trim for shutters around the windows. The residence also has a green roof that overhangs a small porch. There is a tall piece of wood fastened to the house that appears to have a light fixed to it. There are various vehicles parked all around the property. There is a long driveway leading to the property.

b. The residence of Kenneth GUSSONI, located at 140 Broad St W, Bremerton, Washington 98312, is more fully described as a light grey two story structure with white trim. Sides of house are white. Older white lamp post in front yard, large white mailbox with "140" written on it. The back half of the structure has been added on to both on the main floor and upstairs. There is also a one window in the front, which is the only window in the front for the top floor.

c. The residence of Roy S. ALLOWAY located at 9468 Phillips Rd SE, Port Orchard, Washington 98367, is more fully described as a one story residence with a large separate building on the property. The house is off white in color with blue/grey trim and hand written on the white mailbox at the end of the driveway is "9468"

d. The residence of David DEVENNEY, located at 9610 Old Highway 99, Olympia, Washington 98501, is more fully described as a one story structure, cream in color located on the left side of a private road that leads to this house. There is a sign on the main road that shows 9610 and another sign that is in black letters that is posted in the front yard of the residence that also says the 9610. The front of house has a front porch with white columns and a dark reddish/brown metal roof.

**ATTACHMENT B-1**  
(Items to be Seized)

The following records, documents and other items that constitute evidence, contraband, fruits, and/or instrumentalities of Unlawful Dealing in Firearms, in violation of Title 18, United States Code, Sections 922(a)(1)(A), are to be seized from the residence of Mark SKILES, located at 651 Alder Creek Ln NE, Belfair, Washington 98528, and the residence of David DEVENNEY, located at 9610 Old Highway 99, Olympia, Washington 98501:

1. Any and all firearms.
2. Any other items pertaining to the sale or acquisition of firearms including but not limited to gun cases, packaging, magazines, photographs of firearms or of persons in possession of firearms, and receipts for the purchase or disposition and/or repair of any firearms.
3. Any firearm laws/rules or guidelines documentation explaining the dealing of firearms.
4. Business cards or signage used to sell or acquire firearms.
5. W.A.C. membership information and or card.
6. Information or registration documentation for gun shows.
7. Any and all receipts, documents, invoices, records, bank statements, tax records, income statements, licensing paperwork and notes whether handwritten, typed, photocopied or in printed form pertaining to the acquisition, receipt, purchase and/or sale of firearms.
8. Any storage facility documentation and/or related keys.
9. Any and all indicia, to include records and items that establish control, possession, custody or dominion over the property and vehicles searched and from which evidence is seized.

# ATTACHMENT C

U.S. Department of Justice  
Bureau of Alcohol, Tobacco, Firearms and Explosives

## Firearms Transaction Record Part I - Over-the-Counter

**WARNING:** You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited under law from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. §§ 921 *et seq.*, are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.

Transferor's Transaction  
Serial Number (If any)

Prepare in original only. All entries must be handwritten in ink. Read the Notices, Instructions, and Definitions on this form. "PLEASE PRINT."

### Section A - Must Be Completed Personally By Transferee (Buyer)

1. Transferee's Full Name		
Last Name	First Name	Middle Name (If no middle name, state "NMN")

2. Current Residence Address (U.S. Postal abbreviations are acceptable. Cannot be a post office box.)				
Number and Street Address	City	County	State	ZIP Code

3. Place of Birth	4. Height	5. Weight	6. Gender	7. Birth Date
U.S. City and State -OR- Foreign Country	Ft. _____ In. _____	(Lbs.)	Male <input type="checkbox"/> Female <input type="checkbox"/>	Month _____ Day _____ Year _____

8. Social Security Number (Optional, but will help prevent misidentification)	9. Unique Personal Identification Number (UPIN) if applicable (See Instructions for Question 9.)
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10. Race (Ethnicity) (Check one or more boxes. See Instructions for Question 10.)

<input type="checkbox"/> American Indian or Alaska Native	<input type="checkbox"/> Black or African American	<input type="checkbox"/> Native Hawaiian or Other Pacific Islander
<input type="checkbox"/> Hispanic or Latino	<input type="checkbox"/> Asian	<input type="checkbox"/> White

11. Answer questions 11.a. (see exceptions) through 11.i. and 12 (if applicable) by checking or marking "yes" or "no" in the boxes to the right of the questions.		
a. Are you the actual transferee/buyer of the firearm(s) listed on this form? <b>Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you. (See Instructions for Question 11.a.) Exception: If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
b. Are you under indictment or information in any court for a felony, or any other crime, for which the judge could imprison you for more than one year? (See Instructions for Question 11.b.)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
c. Have you ever been convicted in any court of a felony, or any other crime, for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Instructions for Question 11.c.)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
d. Are you a fugitive from justice?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
f. Have you ever been adjudicated mentally defective (which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or to others or are incompetent to manage your own affairs) OR have you ever been committed to a mental institution? (See Instructions for Question 11.f.)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
g. Have you been discharged from the Armed Forces under dishonorable conditions?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (See Instructions for Question 11.h.)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
i. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? (See Instructions for Question 11.i.)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
j. Have you ever renounced your United States citizenship?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
k. Are you an alien illegally in the United States?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
l. Are you a nonimmigrant alien? (See Instructions for Question 11.l.) If you answered "no" to this question, do NOT respond to question 12 and proceed to question 13.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
12. If you are a nonimmigrant alien, do you fall within any of the exceptions set forth in the instructions? (If "yes," the licensee must complete question 20d.) (See Instructions for Question 12.) If question 11.l. is answered with a "no" response, then do NOT respond to question 12 and proceed to question 13.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
13. What is your State of residence (if any)? (See Instructions for Question 13.)	14. What is your country of citizenship? (List/check more than one, if applicable. If you are a citizen of the United States, proceed to question 16.) <input type="checkbox"/> United States of America <input type="checkbox"/> Other (Specify) _____	
15. If you are not a citizen of the United States, what is your U.S.-issued alien number or admission number?		

I certify that my answers to Section A are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. I understand that answering "yes" to question 11.a. if I am not the actual buyer is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I understand that a person who answers "yes" to any of the questions 11.b. through 11.k. is prohibited from purchasing or receiving a firearm. I understand that a person who answers "yes" to question 11.l. is prohibited from purchasing or receiving a firearm, unless the person also answers "yes" to question 12. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of law (See Instructions for Question 16).

16. Transferee's/Buyer's Signature

17. Certification Date

**Section B - Must Be Completed By Transferor (Seller)**

18. Type of firearm(s) to be transferred (check or mark all that apply):

☐ Handgun ☐ Long Gun ☐ Other Firearm (Frame, Receiver, etc.)  
(rifles or shotguns) See Instructions for Question 18.)

19. If sale at a gun show or other qualifying event.

Name of Event \_\_\_\_\_

City, State \_\_\_\_\_

20a. Identification (e.g., Virginia Driver's license (VA DL) or other valid government-issued photo identification.) (See Instructions for Question 20.a.)

Issuing Authority and Type of Identification

Number on Identification

Expiration Date of Identification (if any)

Month

Day

Year

20b. Alternate Documentation (if driver's license or other identification document does not show current residence address)

20c. All Aliens: Type and dates of documents that establish 90-day residency (e.g., utility bills or lease agreements). (See Instructions for Question 20.c.)

Type(s) of Document

Date(s) of residence indicated on documents

20d. Nonimmigrant Aliens Must Provide: Type of documentation showing an exception to the nonimmigrant alien prohibition. (See Instructions for Question 20.d.)

**Questions 21, 22, or 23 Must Be Completed Prior To The Transfer Of The Firearm(s) (See Instructions for Questions 21, 22 and 23.)**

21a. Date the transferee's identifying information in Section A was transmitted to NICS or the appropriate State agency: (Month/Day/Year)

Month

Day

Year

21b. The NICS or State transaction number (if provided) was:

21c. The response initially provided by NICS or the appropriate State agency was:

☐ Proceed  
☐ Denied  
☐ Cancelled

☐ Delayed  
[The firearm(s) may be transferred on  
\_\_\_\_\_ (MDI date provided by NICS)  
if State law permits (optional)]

21d. If initial NICS or State response was "Delayed," the following response was received from NICS or the appropriate State agency:

☐ Proceed \_\_\_\_\_ (date)  
☐ Denied \_\_\_\_\_ (date)  
☐ Cancelled \_\_\_\_\_ (date)  
☐ No resolution was provided within 3 business days.

21e. (Complete if applicable.) After the firearm was transferred, the following response was received from NICS or the appropriate State agency on: \_\_\_\_\_ (date). ☐ Proceed ☐ Denied ☐ Cancelled

21f. The name and Brady identification number of the NICS examiner (Optional)

(name)

(number)

22. ☐ No NICS check was required because the transfer involved only NFA firearm(s). (See Instructions for Question 22.)23. ☐ No NICS check was required because the buyer has a valid permit from the State where the transfer is to take place, which qualifies as an exemption to NICS (See Instructions for Question 23.)

Issuing State and Permit Type

Date of Issuance (if any)

Expiration Date (if any)

Permit Number (if any)

**Section C - Must Be Completed Personally By Transferee (Buyer)**

If the transfer of the firearm(s) takes place on a different day from the date that the transferee (buyer) signed Section A, the transferee must complete Section C immediately prior to the transfer of the firearm(s). (See Instructions for Question 24 and 25.)

I certify that my answers to the questions in Section A of this form are still true, correct and complete.

24. Transferee's/Buyer's Signature

25. Recertification Date



## Section D - Must Be Completed By Transferor (Seller)

26. Manufacturer and/or Importer (If the manufacturer and importer are different, the FFL should include both.)	27. Model	28. Serial Number	29. Type (pistol, revolver, rifle, shotgun, receiver, frame, etc.) (See instructions for question 29)	30. Caliber or Gauge

30a. Total Number of Firearms (Please *handwrite* by printing e.g., one, two, three, etc. Do not use numerals.)30b. Is any part of this transaction a Pawn Redemption? ☐ Yes ☐ No

30c. For Use by FFL (See Instructions for Question 30c.)

## Complete ATF Form 3310.4 For Multiple Purchases of Handguns Within 5 Consecutive Business Days

31. Trade/corporate name and address of transferor (seller) (Hand stamp may be used.)

32. Federal Firearms License Number (Must contain at least first three and last five digits of FFL Number X-XX-XXXXX.) (Hand stamp may be used.)

## The Person Transferring The Firearm(s) Must Complete Questions 33-36. For Denied/Cancelled Transactions, The Person Who Completed Section B Must Complete Questions 33-35.

I certify that my answers in Sections B and D are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. On the basis of: (1) the statements in Section A (and Section C if the transfer does not occur on the day Section A was completed); (2) my verification of the identification noted in question 20a (and my reverification at the time of transfer if the transfer does not occur on the day Section A was completed); and (3) the information in the current State Laws and Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to the person identified in Section A.

33. Transferor's/Seller's Name (Please print)	34. Transferor's/Seller's Signature	35. Transferor's/Seller's Title	36. Date Transferred

## NOTICES, INSTRUCTIONS AND DEFINITIONS

**Purpose of the Form:** The information and certification on this form are designed so that a person licensed under 18 U.S.C. § 923 may determine if he or she may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the buyer of certain restrictions on the receipt and possession of firearms. This form should only be used for sales or transfers where the seller is licensed under 18 U.S.C. § 923. The seller of a firearm must determine the lawfulness of the transaction and maintain proper records of the transaction. Consequently, the seller must be familiar with the provisions of 18 U.S.C. §§ 921-931 and the regulations in 27 CFR Part 478. In determining the lawfulness of the sale or delivery of a long gun (rifle or shotgun) to a resident of another State, the seller is presumed to know the applicable State laws and published ordinances in both the seller's State and the buyer's State.

After the seller has completed the firearms transaction, he or she must make the completed, original ATF Form 4473 (which includes the Notices, General Instructions, and Definitions), and any supporting documents, part of his or her permanent records. Such Forms 4473 must be retained for at least 20 years. Filing may be chronological (by date), alphabetical (by name), or numerical (by transaction serial number), as long as all of the seller's completed Forms 4473 are filed in the same manner. FORMS 4473 FOR DENIED/CANCELLED TRANSFERS MUST BE RETAINED: If the transfer of a firearm is denied/cancelled by NICS, or if for any other reason the transfer is not complete after a NICS check is initiated, the licensee must retain the ATF Form 4473 in his or her records for at least 5 years. Forms 4473 with respect to which a sale, delivery, or transfer did not take place shall be separately retained in alphabetical (by name) or chronological (by date of transferee's certification) order.

If you or the buyer discover that an ATF Form 4473 is incomplete or improperly completed after the firearm has been transferred, and you or the

Page 3 of 6

buyer wish to make a record of your discovery, then photocopy the inaccurate form and make any necessary additions or revisions to the photocopy. You only should make changes to Sections B and D. The buyer should only make changes to Sections A and C. Whoever made the changes should initial and date the changes. The corrected photocopy should be attached to the original Form 4473 and retained as part of your permanent records.

**Over-the-Counter Transaction:** The sale or other disposition of a firearm by a seller to a buyer, at the seller's licensed premises. This includes the sale or other disposition of a rifle or shotgun to a nonresident buyer on such premises.

**State Laws and Published Ordinances:** The publication (ATF P 5300.5) of State firearms laws and local ordinances ATF distributes to licensees.

**Exportation of Firearms:** The State or Commerce Departments may require you to obtain a license prior to export.

## Section A

**Question 1. Transferee's Full Name:** The buyer must personally complete Section A of this form and certify (sign) that the answers are true, correct, and complete. However, if the buyer is unable to read and/or write, the answers (other than the signature) may be completed by another person, excluding the seller. Two persons (other than the seller) must then sign as witnesses to the buyer's answers and signature.

When the buyer of a firearm is a corporation, company, association, partnership, or other such business entity, an officer authorized to act on behalf of the business must complete Section A of the form with his or her personal information, sign Section A, and attach a written statement, executed under penalties of perjury, stating: (A) the firearm is being acquired for the use of and will be the property of that business entity and (B) the name and address of that business entity.

ATF Form 4473 (5300.9) Part I  
Revised August 2008



If the buyer's name in question 1. is illegible, the seller must print the buyer's name above the name written by the buyer.

**Question 2. Current Residence Address:** U.S. Postal abbreviations are acceptable. (e.g., St., Rd., Dr., P.O. NC, etc.). Address cannot be a post office box. County and Parish are one and the same.

If the buyer is a member of the Armed Forces on active duty acquiring a firearm in the State where his or her permanent duty station is located, but does not reside at his or her permanent duty station, the buyer must list both his or her permanent duty station address and his or her residence address in response to question 2. If you are a U.S. citizen with two States of residence, you should list your current residence address in response to question 2 (e.g., if you are buying a firearm while staying at your weekend home in State X, you should list your address in State X in response to question 2).

**Question 9. Unique Personal Identification Number (UPIN):** For purchasers approved to have information maintained about them in the FBI NICS Voluntary Appeal File, NICS will provide them with a Unique Personal Identification Number, which the buyer should record in question 9. The licensee may be asked to provide the UPIN to NICS or the State.

**Question 10. Race (Ethnicity):** Any other race or ethnicity that does not fall within those indicated, please select the closest representation.

**Question 11.a. Actual Transferee/Buyer:** For purposes of this form, you are the actual transferee/buyer if you are purchasing the firearm for yourself or otherwise acquiring the firearm for yourself (e.g., redeeming the firearm from pawn/retrieving it from consignment, firearm raffle winner). You are also the actual transferee/buyer if you are legitimately purchasing the firearm as a gift for a third party. **ACTUAL TRANSFEREE/BUYER EXAMPLES:** Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. Mr. Jones is **NOT THE ACTUAL TRANSFEREE/BUYER** of the firearm and must answer "NO" to question 11.a. The licensee may not transfer the firearm to Mr. Jones. However, if Mr. Brown goes to buy a firearm with his own money to give to Mr. Black as a present, Mr. Brown is the actual transferee/buyer of the firearm and should answer "YES" to question 11.a. However, you may not transfer a firearm to any person you know or have reasonable cause to believe is prohibited under 18 U.S.C. § 922(g), (n), or (x). **Please note: EXCEPTION:** If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b.

**Question 11.b. - 11.i. Definition of Prohibited Person:** Generally, 18 U.S.C. § 922 prohibits the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who: has been convicted of a misdemeanor crime of domestic violence; has been convicted of a felony, or any other crime, punishable by imprisonment for a term exceeding one year (this does not include State misdemeanors punishable by imprisonment of two years or less); is a fugitive from justice; is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance; has been adjudicated mentally defective or has been committed to a mental institution; has been discharged from the Armed Forces under dishonorable conditions; has renounced his or her U.S. citizenship; is an alien illegally in the United States or a nonimmigrant alien; or is subject to certain restraining orders. Furthermore, section 922 prohibits the shipment, transportation, or receipt in or affecting interstate commerce of a firearm by one who is under indictment or information for a felony, or any other crime, punishable by imprisonment for a term exceeding one year.

**Question 11.b. Under Indictment or Information or Convicted in any Court:** An indictment, information, or conviction in any Federal, State, or local court. An information is a formal accusation of a crime verified by a prosecutor.

**EXCEPTION to 11.c. and 11.i.:** A person who has been convicted of a felony, or any other crime, for which the judge could have imprisoned the person for more than one year, or who has been convicted of a misdemeanor crime of domestic violence, is not prohibited from purchasing, receiving, or possessing a firearm if: (1) under the law of the jurisdiction where the conviction occurred, the person has been pardoned, the conviction has been expunged or set aside, or the person has had their civil rights (the right to vote, sit on a jury, and hold public office) taken away and later restored AND (2) the person is not prohibited by the law of the jurisdiction where the conviction occurred from receiving or possessing firearms. Persons subject to this exception should answer "no" to 11.c. or 11.i., as applicable.

Page 4 of 6

**Question 11.f. Adjudicated Mentally Defective:** A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease: (1) is a danger to himself or to others; or (2) lacks the mental capacity to contract or manage his own affairs. This term shall include: (1) a finding of insanity by a court in a criminal case; and (2) Those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility.

**Committed to a Mental Institution:** A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily. The term includes commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution. Please also refer to Question 11.c. for the definition of a prohibited person.

**EXCEPTION to 11.f. NICS Improvement Amendments Act of 2007:** A person who has been adjudicated as a mental defective or committed to a mental institution is not prohibited if: (1) the person was adjudicated or committed by a department or agency of the Federal Government, such as the United States Department of Veteran's Affairs ("VA") (as opposed to a State court, State board, or other lawful State authority); and (2) either: (a) the person's adjudication or commitment for mental incompetency was set-aside or expunged by the adjudicating/committing agency; (b) the person has been fully released or discharged from all mandatory treatment, supervision, or monitoring by the agency; or (c) the person was found by the agency to no longer suffer from the mental health condition that served as the basis of the initial adjudication. **Persons who fit this exception should answer "no" to Item 11.f.** This exception does not apply to any person who was adjudicated to be not guilty by reason of insanity, or based on lack of mental responsibility, or found incompetent to stand trial, in any criminal case or under the Uniform Code of Military Justice.

**Question 11.h. Definition of Restraining Order:** Under 18 U.S.C. § 922, firearms may not be sold to or received by persons subject to a court order that: (A) was issued after a hearing which the person received actual notice of and had an opportunity to participate in; (B) restrains such person from harassing, stalking, or threatening an intimate partner or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury. An "intimate partner" of a person is: the spouse or former spouse of the person, the parent of a child of the person, or an individual who cohabitates or cohabitating with the person.

**Question 11.i. Definition of Misdemeanor Crime of Domestic Violence:** A Federal, State, local, or tribal offense that is a misdemeanor under Federal, State, or tribal law and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with, or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. The term includes all misdemeanors that have as an element the use or attempted use of physical force or the threatened use of a deadly weapon (e.g., assault and battery), if the offense is committed by one of the defined parties. (See Exception to 11.c. and 11.i.) A person who has been convicted of a misdemeanor crime of domestic violence also is not prohibited unless: (1) the person was represented by a lawyer or gave up the right to a lawyer; or (2) if the person was entitled to a jury, was tried by a jury, or gave up the right to a jury trial. Persons subject to this exception should answer "no" to 11.i.

**Question 11.l. "Nonimmigrant Alien":** An alien in the United States in a nonimmigrant classification. The definition includes, among others, persons traveling temporarily in the United States for business or pleasure, persons studying in the United States who maintain a residence abroad, and certain foreign workers. The definition does NOT include permanent resident aliens.

**Sale of Firearms to Legal Aliens:** Even if a nonimmigrant alien can establish that he or she has a U.S.-issued alien number or admission number and has resided in a State for at least 90 continuous days immediately prior to the date of

sale, he or she is prohibited from receiving a firearm unless he or she falls within an exception to the nonimmigrant alien prohibition. (See Question 11.c. and Exception to 11.1.) If a nonimmigrant alien claims to fall within one of these exceptions by answering "yes" to question 12, he or she must provide the licensee with documentation of the exception (e.g., hunting license/permit; waiver). If the documentation is a hunting license/permit, the licensee must make sure it has not expired. An expired hunting license/permit does not qualify for the exception. A licensee MUST complete and may attach a copy of the documentation to ATF Form 4473.

**EXCEPTION to 11.1:** A nonimmigrant alien is not prohibited from purchasing, receiving, or possessing a firearm if the alien: (1) is in possession of a hunting license or permit lawfully issued in the United States; or (2) has received a waiver from the prohibition from the Attorney General of the United States. (See 18 U.S.C. § 922(y)(2) for additional exceptions.) Persons subject to one of these exceptions should answer "yes" to questions 11.1. and 12 and provide a copy of the hunting license or letter granting the waiver, which must be recorded in 20.d. If the Transferee (Buyer) answered "yes" to this question, the licensee MUST complete 20.d.

**Question 12. Exceptions to Nonimmigrant Alien Response:** If question 11.1. is answered with a "no" response, then do NOT respond to question 12 and proceed to question 13. If response is "yes," then licensee must complete question 20.d., and may attach a copy.

**Question 13. State of Residence:** The State in which an individual resides. An individual resides in a State if he or she is present in a State with the intention of making a home in that State. If an individual is a member of the Armed Forces on active duty, his or her State of residence also is the State in which his or her permanent duty station is located. An alien who is legally in the United States is a resident of a State only if the alien is residing in the State and has resided in the State continuously for at least 90 days immediately prior to the date of sale or delivery of a firearm.

If you are a U.S. citizen with two States of residence, you should list your current residence address in response to question 2 (e.g., if you are buying a firearm while staying at your weekend home in State X, you should list your address in State X in response to question 2.) If you are not a citizen of the United States, you only have a State of residence if you have resided in a State for at least 90 continuous days immediately prior to the date of this sale.

**Question 16. Certification Definition of Engaged in the Business:** Under 18 U.S.C. § 922 (a)(1), it is unlawful for a person to engage in the business of dealing in firearms without a license. A person is engaged in the business of dealing in firearms if he or she devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. A license is not required of a person who only makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his or her personal collection of firearms.

## Section B

**Question 18. Type of Firearm(s):** Check all boxes that apply. "Other" refers to frames, receivers and other firearms that are not either handguns or long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell, or National Firearms Act (NFA) firearms.

If a frame or receiver can only be made into a long gun (rifle or shotgun), it is still a frame or receiver not a handgun or long gun. However, they still are "firearms" by definition, and subject to the same GCA limitations as any other firearms. See Section 921(a)(3)(b). 18 U.S.C. Section 922(b)(1) makes it unlawful for a licensee to sell any firearm other than a shotgun or rifle to any person under the age of 21. Since a frame or receiver for a firearm, to include one that can only be made into a long gun, is a "firearm other than a shotgun or rifle," it cannot be transferred to anyone under the age of 21. Also, note that multiple sales forms are not required for frames or receivers of any firearms, or pistol grip shotguns, since they are not "pistols or revolvers" under Section 923(g)(3)(a).

**Question 19. Gun Shows:** If sale at gun show or other qualifying event sponsored by any national, State, or local organization, as authorized by

27 CFR § 478.100, the seller must record the name of event and the location (city and State) of the sale in question 19.

**Question 20a. Identification:** List issuing authority (e.g., State, County or Municipality) and type of identification presented (e.g., Virginia driver's license (VA DL), or other valid government-issued identification).

**Know Your Customer:** Before a licensee may sell or deliver a firearm to a nonlicensee, the licensee must establish the identity, place of residence, and age of the buyer. The buyer must provide a valid government-issued photo identification to the seller that contains the buyer's name, residence address, and date of birth. The licensee must record the type, identification number, and expiration date (if any) of the identification in question 20.a. A driver's license or an identification card issued by a State in place of a license is acceptable. Social Security cards are not acceptable because no address, date of birth, or photograph is shown on the cards. A combination of government-issued documents may be provided. For example, if a U.S. citizen has two States of residence and is trying to buy a handgun in State X, he may provide a driver's license (showing his name, date of birth, and photograph) issued by State Y and another government-issued document (such as a tax document) from State X showing his residence address. If the buyer is a member of the Armed Forces on active duty acquiring a firearm in the State where his or her permanent duty station is located, but he or she has a driver's license from another State, you should list the buyer's military identification card and official orders showing where his or her permanent duty station is located in response to question 20.a.

**Question 20.b. Alternate Documentation:** Licensees may accept a combination of valid government-issued documents to satisfy the identification document requirements of the law. The required valid government-issued photo identification document bearing the name, photograph, and date of birth of transferee may be supplemented by another valid, government-issued document showing the transferee's residence address. This alternate documentation should be recorded in question 20.b., with issuing authority and type of identification presented. A combination of government-issued documents may be provided. For example, if a U.S. citizen has two States of residence and is trying to buy a handgun in State X, he may provide a driver's license (showing his name, date of birth, and photograph) issued by State Y and another government-issued document (such as a tax document) from State X showing his residence address.

**Question 20.c. Documentation for All Aliens:**

**Sale of Firearms to Legal Aliens:** A buyer who is not a citizen of the United States must provide additional documentation (beyond a valid government-issued photo identification that contains the buyer's name, residence address, and date of birth) to establish that he or she has resided in a State continuously for at least 90 days immediately prior to the date of the sale. (See Question 13.) Examples of appropriate documents to establish State residency are utility bills from each of the last 3 months immediately prior to the sale or a lease agreement that demonstrates 90 days of residency immediately prior to the sale. A licensee may attach a copy of the documentation to ATF Form 4473, rather than record the type of documentation in question 20.c. Acceptable documentation to prove 90-day continuous residency must be original documentation (e.g., utility bills, current bank statements, rent receipts, mortgage payments, lease agreements, personal property tax bills, documents issued by Federal, State, or local government agencies, first-class mail issued by government agency, insurance policies, or bill with current address or major credit card bill).

**Question 20.d. Documentation for Nonimmigrant Aliens:** See instructions for Question 11.1. Types of acceptable documents would include a valid State-issued hunting license or a letter from the U.S. Attorney General granting a waiver.

**Question(s) 21, 22, 23. NICS BACKGROUND CHECKS:** 18 U.S.C. § 922(t) requires that prior to transferring any firearm to an unlicensed person, a licensed importer, manufacturer, or dealer must first contact the National Instant Criminal Background Check System (NICS). NICS will advise the licensee whether the system finds any information that the purchaser is prohibited by law from possessing or receiving a firearm. For purposes of this form, contacts to NICS include contacts to State agencies designated to conduct NICS checks for the Federal Government. **WARNING:** Any seller who transfers a firearm to any person they know or have reasonable cause to believe is prohibited from receiving or possessing a firearm violates the law, even if the seller has complied with the background check requirements of the Brady law.

After the buyer has completed Section A of the form and the licensee has completed questions 18-20, and before transferring the firearm, the licensee must contact NICS (*read below for NICS check exceptions.*) However, the licensee should NOT contact NICS and should stop the transaction if: the buyer answers "no" to question 11.a.; the buyer answers "yes" to any question in 11.b.-11.l., unless the buyer only has answered "yes" to question 11.l. and also answers "yes" to question 12; or the buyer is unable to provide the documentation required by question 20.a, b, c, or d.

At the time that NICS is contacted, the licensee must record in question 21.a-c: the date of contact, the NICS (*or State*) transaction number, and the initial response provided by NICS or the State. The licensee may record the Missing Disposition Information (MDI) date in 21.c. that NICS provides for delayed transactions (*States do not provide this number*). If the licensee receives a "delayed" response, before transferring the firearm, the licensee must record in question 21.d. any response later provided by NICS or the State or that no resolution was provided within 3 business days. If the licensee receives a response from NICS or the State after the firearm has been transferred, he or she must record this information in question 21.e. **Note:** States acting as points of contact for NICS checks may use terms other than "proceed," "delayed," "cancelled," or "denied." In such cases, the licensee should check the box that corresponds to the State's response. Some States may not provide a transaction number for denials. However, if a firearm is transferred within the three business day period, a transaction number is required.

**NICS Responses:** If NICS provides a "proceed" response, the transaction may proceed. If NICS provides a "cancelled" response, the seller is prohibited from transferring the firearm to the buyer. If NICS provides a "denied" response, the seller is prohibited from transferring the firearm to the buyer. If NICS provides a "delayed" response, the seller is prohibited from transferring the firearm unless 3 business days have elapsed and, before the transfer, NICS or the State has not advised the seller that the buyer's receipt or possession of the firearm would be in violation of law. (See 27 CFR § 478.102(a) for an example of how to calculate 3 business days.) If NICS provides a "delayed" response, NICS also will provide a Missing Disposition Information (MDI) date that calculates the 3 business days and reflects when the firearm(s) can be transferred under Federal law. States may not provide an MDI date. *Please note State law may impose a waiting period on transferring firearms.*

**EXCEPTIONS TO NICS CHECK:** A NICS check is not required if the transfer qualifies for any of the exceptions in 27 CFR § 478.102(d). Generally these include: (a) transfers where the buyer has presented the licensee with a permit or license that allows the buyer to possess, acquire, or carry a firearm, and the permit has been recognized by ATF as a valid alternative to the NICS check requirement; (b) transfers of National Firearms Act weapons approved by ATF; or (c) transfers certified by ATF as exempt because compliance with the NICS check requirements is impracticable. See 27 CFR § 478.102(d) for a detailed explanation. If the transfer qualifies for one of these exceptions, the licensee must obtain the documentation required by 27 CFR § 478.131. A firearm must not be transferred to any buyer who fails to provide such documentation.

### Section C

**Question 24 and 25. Transfer on a Different Day and Recertification:** If the transfer takes place on a different day from the date that the buyer signed Section A, the licensee must again check the photo identification of the buyer at the time of transfer, and the buyer must complete the recertification in Section C at the time of transfer.

### Section D

Immediately prior to transferring the firearm, the seller must complete all of the questions in Section D. In addition to completing this form, the seller must report any multiple sale or other disposition of pistols or revolver on ATF Form 3310.4 (see 27 CFR § 478.126a).

**Question(s) 26, 27, 28, 29 and 30, Firearm(s) Description:** These blocks should be completed with the firearm(s) information. Firearms manufactured after 1968 should all be marked with a serial number. Should you acquire a firearm that is not marked with a serial number, you may answer question 28 with "NSN" (No Serial Number), "N/A" or "None."

If more than five firearms are involved in a transaction, the information required by Section D, questions 26-30, must be provided for the additional firearms on a separate sheet of paper, which must be attached to the ATF Form 4473 covering the transaction.

**Types of firearms include:** pistol, revolver, rifle, shotgun, receiver, frame and other firearms that are not either handguns or long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell or National Firearms Act (NFA) firearms.

Additional firearms purchases by the same buyer may not be added to the form after the seller has signed and dated it. A buyer who wishes to purchase additional firearms after the seller has signed and dated the form must complete a new ATF Form 4473. The seller must conduct a new NICS check.

**Question 30c.** This box is for the FFL's use in recording any information he or she finds necessary to conduct business.

**Question 32 Federal Firearms License Number:** Must contain at least the first three and last five digits of the FFL number, for instance X-XX-XXXXX.

**Question 33-35 Transferor/Sellers Information:** For "denied" and "cancelled" NICS transactions, the person who completed Section B must complete Section D, questions 33-35.

### Privacy Act Information

Solicitation of this information is authorized under 18 U.S.C. § 923(g). Disclosure of the individual's Social Security number is voluntary. The number may be used to verify the buyer's identity.

### Paperwork Reduction Act Notice

The information required on this form is in accordance with the Paperwork Reduction Act of 1995. The purpose of the information is to determine the eligibility of the transferee to receive firearms under Federal law. The information is subject to inspection by ATF officers and is required by 18 U.S.C. §§ 922 and 923.

The estimated average burden associated with this collection is 30 minutes per respondent or recordkeeper, depending on individual circumstances. Comments about the accuracy of this burden estimate and suggestions for reducing it should be directed to Reports Management Officer, Document Services Section, Bureau of Alcohol, Tobacco, Firearms and Explosives, Washington, DC 20226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Confidentiality is not assured.

# ATTACHMENT D

U.S. Department of Justice  
Bureau of Alcohol, Tobacco, Firearms and Explosives

## Report of Multiple Sale or Other Disposition of Pistols and Revolvers

(Please complete all information)

1. Date Transferred

2a. Federal Firearms Licensee (FFL) Number

2b. Business or Trade Name and Address (If you have complete information available on a rubber stamp, please place information here.)

2c. Is this firearm connected to another multiple sale? (If yes, specify date)

☐ Yes ☐ No

Date

2d. If you sold these firearms at a gun show or other qualifying event, identify the event and provide a complete address of the event.

3. Any Combination of Pistols and Revolvers Acquired in the Last Five Business Days

Type (Pistol or revolver)	Serial Number	Manufacturer	Importer	Model	Caliber	Disposition Date

4. Transferee's Name (Last, first, middle)

5. Residence Address (Number, street, city, county, state, zip code)

6. Sex

7. Race

☐ American Indian or Alaska Native

☐ Asian

☐ Native Hawaiian or Pacific Islander

☐ African American or Black

☐ Hispanic or Latino

☐ White

☐ Other (Specify)

8. Identification Number

9. Type of Identification

10. ID State

11. Date of Birth

12. Place of Birth (City, county, state, country)

13. If the buyer of the firearms listed in item 4 is an officer authorized to act on behalf of a corporation, company, association, partnership or other such business entity, you must complete the following:

Name and Address of Business Entity

14a. Identify the official designated by the state or local authorities where you, the FFL, will be forwarding copy 2.

Name of Agency

Street Address, City, and State

14b. Date Copy 2 was Forwarded to Agency

15. Additional Information Relating to the Transfer of the Firearms

16. Name of Employee Filling Out This Form

17. Date This Form Was Completed

When Fax is Available, Please Fax to 1-877-283-0288.

ATF Form 3310.4  
Revised March 2009



**Instructions**

1. This form is to be used by licensees to report all transactions in which an unlicensed person acquired two or more pistols or revolvers or any combination of pistols or revolvers totaling two or more at one time or during five consecutive business days. This form is not required when the pistols or revolvers are returned to the same person from whom they are received.
2. If this transaction is an additional weapon(s) to a multiple sale previously submitted, check yes and enter the date of the previous Multiple Sale form. *(For example a multiple sale for purchases made on a Monday and Friday must be submitted by the close of business Friday. If an additional purchase is made within the five days from the Friday purchase, this purchase is part of the previous Multiple Sale and must be reported as part of that multiple sale under 2c).*
3. Item 2d - if the buyer of the firearm is a corporation, company, association, partnership or other such business entity, an officer authorized to act on behalf of the business must complete Item 4 of this form with his or her personal information. Information relating to the corporation, company, association, partnership or other such business entity should be placed in item 13.
4. A separate form is to be submitted for each unlicensed person.
5. Licensees must complete items 1 through 12 entirely. Items 13 through 17 must be completed, if applicable.
6. The report is to be submitted to:
  - a. **Copy 1** - The National Tracing Center no later than the close of business on the day that the multiple sale or other disposition occurs. You can either fax the form to 877-283-0288, or mail it to U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, National Tracing Center, P.O. Box 0279, Kearneysville, WV 25430-0279.
  - b. **Copy 2** - The official designated by the State or local authorities to receive this form, or in the absence of such designation, to the department of State police or State law enforcement agency in the jurisdiction where the handgun transfer occurred.

**Note to the Recipient of Copy 2:**

18 U.S.C. 923(g)(3)(B) provides in part that you certify in writing every six months that no disclosures have been made and that the multiple sales forms on non-prohibited persons have been destroyed as required by law. The following statement can be used for this purpose. "I hereby certify on behalf of *(specify agency)* that for a period of six months *(specify dates)* there have been no disclosures of Multiple Sales Forms contrary to the provisions of the Brady Handgun Violence Protection Act, and that all forms and any record of the contents thereof have been destroyed as provided by that law. Statement is to be dated and on agency letterhead, signed by the proper official and forwarded to the following address:

U.S. Department of Justice  
 Attention: Multiple Handgun Sale Form Certifications  
 P.O. Box 4278  
 Clarksburg, WV 26302

- c. **Copy 3** - Regulation 478.126a requires a licensee to retain a copy that should be attached to the back of the Firearms Transaction Record, ATF Form 4473, covering the transfer of the firearms.
7. Additional forms may be obtained through the ATF Distribution Center, 1519 Cabin Branch Drive, Landover, MD 20785, (301) 583-4696, or online at [www.atf.gov](http://www.atf.gov).

**Paperwork Reduction Act Notice**

This request is in accordance with the Paperwork Reduction Act of 1995. The information collection documents certain sales or other dispositions of handguns for law enforcement purposes. The information is used to determine if the buyer (*transferee*) is involved in a unlawful activity, or is a person prohibited by law from obtaining firearms. The information requested is mandatory and required by statute (18 U.S.C. 923(g)).

The estimate average burden associated with this collection is 12 minutes per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Reports Management Officer, Document Services Section, Bureau of Alcohol, Tobacco, Firearms and Explosives, Washington, DC 20226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**Marginals for ATF Form 3310.4:**

**Copy 1 - ATF National Tracing Center**

**Copy 2 - State or Local LE Agency**

**Copy 3 - Licensee**